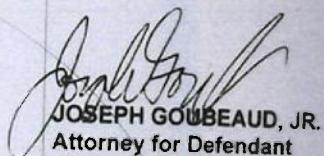


arrest based upon a knowing violation of the order, if that document had been provided.

6. That I have reviewed all of the documents provided by the prosecution at the time of trial, and this document was not provided.
7. That this case has been pending for 20 months, and the document was only discovered in early August, 2020.
8. That attached as exhibit A is a copy of the document and an enlargement of the language which advises that it was not served on the defendant.
9. That the defendant is asking this Court to set aside the verdict and dismiss the case based upon the Brady violation of the prosecution not providing the document prior to trial.

WHEREFORE it is respectfully requested that the Court grant the Motion.

Dated: August 13, 2020



JOSEPH GOUBEAUD, JR.
Attorney for Defendant
22 W. First Street Ste 502
Mount Vernon, N.Y. 10550
914-664-4829

6:50 PM Mon Aug 17

X img668.pdf

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER
PEOPLE OF THE STATE OF NEW YORK

Against

Ind #6293M-2018
AFFIRMATION
IN SUPPORT OF
MOTION

MARC FISHMAN

Defendant

State of New York
County of Westchester

JOSEPH GOUBEAUD, an attorney duly admitted to the practice of law in the State of New York, affirms the following under the penalties of perjury and says;

1. I am the attorney for the defendant in the above matter and submit this affirmation in support of a motion to set aside the jury verdict in this case based upon the failure of the prosecution to turn over a document that was generated by the New Rochelle Police on the date of the defendant's arrest, which would have been effective in the cross examination of the police witness produced at trial.
2. The defendant has been found guilty by a jury of violating a prior order of protection in favor of Jennifer Solomon.
3. That the jury heard testimony that the defendant knowingly violated an order of protection issued by the Family Court.
4. That the new evidence received by the defendant in connection with his pro se proceeding in Federal Court against the New Rochelle Police, which revealed that on the date of his arrest, the New Rochelle Police were advised that he was not served with the order he was charged with violating.
5. That the officer who testified could have been questioned about that document and the reason for proceeding with an

Archived: Friday, September 11, 2020 4:31:46 PM

From: Loomba, LalitK.

Sent: Fri, 11 Sep 2020 14:48:30

To: Natoli, Michelle

Subject: F W:R equests for extension of time to reply to defendants motion to dismiss 19-cv-00265-nr

Sensitivity: Normal

Attachments:

New Document.pdf

1000 JOURNAL OF CLIMATE

Lalit K. Loomba
Of Counsel
Wilson Elser Moskowitz Edelman & Dicker LLP
1133 Westchester Avenue
White Plains, NY 10604
914.872.7118 (Direct)
914.500.3902 (Cell)
914.323.7000 (Main)
914.323.7001 (Fax)
lalit.loomba@wilsonelser.com

From: marc fishman [mailto:[mailto:██████████](#)]
Sent: Monday, August 31, 2020 2:32 PM
To: romannysdchambers@nysd.uscourts.gov; tal1@westchestergov.com; fed.ecf@westchestergov.com
Cc: Loomba, Lalit K. <Lalit.Loomba@wilsonelser.com>; JOELAW40@aol.com
Subject: Request for extension of time for sixty days from 9/1 to 11/1 to reply to defendants motion to dismiss 19-cv-00265-nsm

[EXTERNAL MAIL]

Dear Honorable Judge Roman:

Amw ritings eckingy ourc onsent o as ixtya yc xtensionon m yr eplydu et o defendantsm otiont o dismiss. Ih ad cancers urgeryl astw eck and ambe driddena nd bleeding. Havca f followu p surgeryon 9/ 24/2020 for urtherc anccr emovala nd cubitalt unncles yndromes urgerys cheduled thef irstw eck of O ctobert hatw ilpr eventm of romw ritings or t yping.

Mys entencingw asor iginallys opposed to bet hec nd ofA prilbu tw asa djourned aferm ya ttomeyi nt hel owere ourte riminalc asem otion o dismissw asf ilde aftera ppcalledci visionde cisiont hat allm yor dersof pr otctionw eres ubjecti o supervised visitation(Secc attached 2/26/2029 decision.). Thede cisionw asr endred posti rial..so mya ttomeyc ould notu set o questione opso witnesses. Thet estimonyf romc opsa nd courtc lerk wast hatt herew asn o carvecou ti nt hev isitationor der. Thism otionh ass tilh otbc ende cided. Thes tatcc ourta djourned myc aset o May. thent o Junc. thent o Julyt hent o lastw cek thent o 9/24 and nowt o 9/30(tentatively.)

Thereh avebc ent hrcem otionst o dismissf ilcd int hes tatec ascby m yA tty. Alla reu nanswered. Thereh asbc enn o statecc ourth earings, so I do noth avec hec erificatcof di spositiiont o sitei nm y replyna pers.

Amt old therci sa "pc ndingc onviction"bu tw ithouta c erificateof di sposition, opposingc ourselspa persa repr ematuret o considera na pplicationt o dismissi nf ederalc ourt. Ikn owl a m considered pendingc onviction..because..mya pplicationst o sbal oansdu et o covid werede nied..becauseI h avea "pc ndingc onviction." IfI w asa ctuallyc onvicted ofa m isdcamenor...Ic ould havea ppiled and received shag rantsa nd loans.

It is noted that the hearing was rescheduled seven times. The trial was rescheduled to have ended 1/28/2020. Sentencing is set for 9 months. A certificate of disposition is set for nine months on the 9th of October.

Theni nJ uly..opposingc ounseLM rl olital oonpr ovided discovryi nt hisf ederalc aset hatw asn otrp ovided int hec tatec asc. Mrloombag avem et hec computerpr intoutt hepol icch ad during questioningf m ci npol ics tationbe force reests tating ina llc apitall etters. CAVEATN OTE , PARTYN OTS ERVEDW ITHO RDERO FP ROTETIONW ithc ights tarsh ighlighted (last pageof a ttached motioni na ppelatec ourtc xhibitA ttached.). Thisdi scovryw asn otrp ovided byda or pol icsi ns tatec asc. Ifi tw as, thisc asew ould havebe endi smissed ins tatec ourt. So the 440 motioni spe ndinga nd daS carpino hasbe enr equested to withdrawc harges. Lowere ourtc lerk alreadyt estified thatl w asinw estcheserc ounty aivil hent heor derof pr otetionw as allegedlys erved inc ourt. Nowda /policedi scovryw howsl w asn ots erved ata nyt inc. Ih ad parotid masss urgrybe foret he 6/27/17 and could noth earw ell i nc ourt..whenj judgeS chauer supposcdlym entioned anor derof pr otetion. Ic certainldy d noth cari ta nd evena sked judgef ora n otetakera nd largepr intor dert hatda yt o try o understand herpr oceedings.

Nowa lmost incm onthspes tt rial....incomingda m ini ocalc campaighn ass tated shew illdr op charges. MimiR ocal...ifs hcw insg ereralc lectiona fierw inningpr imary akcesof fice! / 2/2020.

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nondisabled cases from January were disposed of or sentenced. The state skipped the hearing and said it could not make the 9/2 or 9/4 adjournment dates. Now the hearing is set for 9/9..marked final for court to address why my motions to dismiss go ignored for six months and I cannot appeal it like nondisabled. O top of all of this illegal discrimination, judge zuckerman has a bail restriction on me being able to visit my kids. Currently there are no visits allowed due to the discrimination by judge zuckerman. I was not tried or convicted of violating any kids order..so there should be zero bail restriction on contacting kids like nondisabled dads have.

Needless to say...I also need the sixty days because it my human rights does not sue the NYS court system in state court. I will need to ask your honor to add them to a defendant here in federal court. The Seven adjournments go way past any normal covid delay. This was a January trial. Ninety percent of misdemeanor trials were concluded and sentenced or disposed of in state court that began trial in January. There is zero reason other than retaliation for suing judge Schauer and court administration in my case going on with judge Karas and moved to federal second circuit appeals in 18-cv-00282k k..now 20-1300....that this misdemeanor case should not have been concluded in February pre-covid pandemic.

Have requested that opposing counsel consent to adjourn my reply time to motion to dismiss in this case to 11/1 from 9/1 and adjourn opposing counsel sur reply to 11/16 from 9/17. Counselor for westchester county consented. Lolita loomba will only consent to a two week adjournment. My state case will not be resolved by 9/16 and my disabilities prevent me from preparing response at this time post surgery and bedridden.

Seeking your honor to order the sixty day extension and delay issuing any decision on dismissing this case until mimi rocah take office in January.

Please get back to me. Hope your family is safe and healthy during pandemic.

Thank you
Marc Fishman, pro Se plaintiff, qualified disabled under the ada

Westchester county law Dept Tara esq
Lolita loomba, Atty for new richelle and police

-----X
Supreme Court State of New York
Appellate Division Second Department

MARC FISHMAN,

Petitioner,

-against-

App² U.S. 1D
2020-05245, 2020-05247
Fam. Ct.: Unassigned
Fu 131794

JENNIFER SOLOMON,

Respondent

**ORDER TO
SHOW CAUSE**

-----X

UPON reading and filing the accompanying Affidavit of Marc Fishman, Respondent, and all exhibits attached thereto, and the pleadings and prior proceedings in this matter, and due deliberation having been had and sufficient cause appearing,

NOW, on motion of Respondent MARC FISHMAN, it is

and J. A. W. A. F. C.
ORDERED that Petitioner JENNIFER SOLOMON, by counsel, show cause at Family court, 45 monroe place brooklyn, New York, on _____, at 10:30 in the morning, or as soon thereafter as parties/counsel may be called, why an order should not be entered:

1. To declare the order of protection dated 6/27/17 which was not served on mr fishman is invalid and void it EFFECTIVE 6/28/17 RETROACTIVELY.
2. To remove Family court Judge capeci for disability discrimination for failure to grant real time transcription cart in court and virtual court hearings , that were granted in support proceedings of family court by other judges to accommodate mr fishman's numerous hearing, visual, movement, memory and other impairments of major bodily functions. that was approved by the ada liaison and court administration that judge capeci denied.
3. To appoint an new unbiased family court judge to replace capeci in this proceeding to have hearings on parent alienation by Jennifer Solomon and restoring unsupervised access for mr fishman and his four children.
4. To vacate the family court order of protection in favor of Jennifer Solomon for parent alienation and false arrest.
5. To restore all of Mr. fishman's petitions that were filed and dismissed by Judge capeci due to the false arrest and malicious prosecution/withholding of exonerating Brady evidence by police and da.
Now sufficient show cause being shown,

ORDERED that pending the resolution of the instant motion, Mr. Fishman can have unsupervised telephone/text/facetime/skype communication with his daughter and three sons unsupervised.

ORDERED that Ann Elliot, the previous court supervisor, is reappointed supervisor and mr fishman may have up to 8 hours of supervised visits weekly for children he has not seen or has contact with in over eight months.

ORDERED THAT mr fishman may send gifts to his kids like nondisabled parent s due ion other family court cases.

Ordered that visits are at the option of mr fishman to be held at mr fishman's residence due to his disabilities and Ms Solomon is to pickup and deliver the kids for the 8 hours of visits weekly.

6. **ORDERED** that service of this Order, together with all supporting papers, on all other parties shall be made by email or facsimile on or before _____, to be deemed good and sufficient service, on the following counsel at the following addresses:

NICOLE E. FEIT, ESQ.
Legal Services of the Hudson Valley
Attorney for Petitioner-Respondent
90 Maple Avenue
White Plains, NY 10601

Judith Woods, Esq.
Atty for the Children
445 Hamilton Ave
White Plains, NY 10601